

REMARKS

Applicants have amended the claims to more clearly point out the present invention. Applicants respectfully submit that all the claims presently on file are in condition for allowance, which action is earnestly solicited.

THE CLAIMS

Claim Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 11, 19, and 20 were rejected under 35 U.S.C. 112, Second Paragraph, for containing certain informalities. Applicants respectfully submit that these informalities have been addressed in satisfaction of the requirements of 35 U.S.C. 112.

Claim Rejection Under 35 U.S.C. 101

Claims 14-17, and 19-20 were rejected under 35 U.S.C. 101 as being directed non-statutory subject matter. Applicants respectfully submit that the informalities in the rejected claims have been addressed in satisfaction of the requirements of 35 U.S.C. 101.

Claim Rejection Under 35 U.S.C. 102

A. The Rejection

Claims 1-9, and 14-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Chakrabarti et al. (U.S. Patent 6,418,433), hereafter referred to as "Chakrabarti". Applicants respectfully submit that Chakrabarti does not disclose all the elements and limitations of the rejected claims. Consequently,

the claims on file are not anticipated under 35 U.S.C. 102, and the allowance of these claims is earnestly solicited. In support of this position, Applicants submit the following arguments:

B. Legal Standard for Lack of Novelty (Anticipation)

The standard for lack of novelty, that is, for "anticipation," is one of strict identity. To anticipate a claim for a patent, a **single prior source must contain** all its essential elements, and the burden of proving such anticipation is on the party making such assertion of anticipation. Anticipation cannot be shown by combining more than one reference to show the elements of the claimed invention. The amount of newness and usefulness need only be minuscule to avoid a finding of lack of novelty.

The following are two court opinions in support of Applicant's position of non anticipation, with emphasis added for clarity purposes:

- "Anticipation under Section 102 can be found only if a reference shows **exactly** what is claimed; where there are **differences** between the reference disclosures and the claim, a rejection must be based on obviousness under Section 103." *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).
- "**Absence** from a cited reference **of any element** of a claim of a patent negates anticipation of that claim by the reference." *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986), on rehearing, 231 USPQ 160 (Fed. Cir. 1986).

C. Application of the Legal Standard of Novelty

Applicants will now present arguments in support of the allowance of representative independent claim 1, and the claims dependent thereon, over Chakrabarti.

Applicants respectfully traverse the rejection of representative claim 1, and reproduce below the relevant rejection ground in the office action.

"10. Regarding claim 1, **Chakrabarti** teaches a method comprising:

A) selectively prioritizing the documents to crawl based on a set of rules (Column 8, lines 2-30); ...

Chakrabarti does not explicitly teach:

E) selectively prioritizing the documents to crawl based on a set of rules.

Meyerzon, however, teaches "**selectively prioritizing the documents to crawl based on a set of rules**" as "Active plug-ins may be used...a gatherer project may be created that seeks to index all Web documents found during a Web " (Column 11, lines 13-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the cited references because teaching **Meyerzon's** would have allowed **Chankrabarti's** to provide a method to minimize or eliminate time-consuming and error-prone acknowledgement by the patron or delivery personnel to achieve an acceptable degree of efficiency, as noted by **Meyerzon** (Column 11, lines 2-8)." Emphasis added

Applicants agree with the Examiner that Chakrabarti does not explicitly teach: selectively prioritizing the documents to crawl based on a set of rules. **However, the Examiner notes a contradictory position**, namely that Chakrabarti teaches selectively prioritizing the documents to crawl based on a set of rules (Column 8, lines 2-30).

In response to the Examiner's position, Applicants respectfully submit that (Column 8, lines 2-30) of Chakrabarti generally describes a classifier for classifying the crawled pages under a "hard" crawl policy or a "soft" crawl policy. Contrary to Chakrabarti, the instant claim 1 recites "selectively prioritizing the documents **to crawl**". In other terms, the documents are selectively prioritized, **prior to crawling**. In addition, the current method

prioritizes the documents rather than classifies them as described in Chakrabarti. Classification does not necessarily imply ordering the documents in a predetermined order.

Importantly, the legal standard applied in the office action, under 35 U.S.C. 102 is incorrect. In rejecting claim 1 under 35 U.S.C. 102, **the Examiner is not authorized to combine the teaching of a secondary reference**, namely Meyerzon.

Furthermore, Applicants agree with the Examiner that Chakrabarti does not disclose the following elements of the claims on file:

"Regarding claim 12, Chakrabarti does not explicitly teach a method comprising:

A) the miner disallowing the crawling of the resulting resource locator string when the content of the resulting resource locator string matches a focus topic of the miner."

"Regarding claim 13, Chakrabarti does not explicitly teach a method comprising:

A) wherein the miner comprises an unfocus miner that places the resulting uniform resource locator strings that match an unfocus topic in a blacklist, so that the uniform resource locator strings will not be crawled again."

Applicants have now amended claim 1 to recite the general concepts of claims 12 and 13, which, admittedly, are not disclosed by Chakrabarti.

As a result, based on the foregoing strict legal standard for anticipation, Applicants submit that **Chakrabarti does not anticipate claim 1 or the claims dependent thereon**. Thus, the claims on file are allowable and such allowance

is earnestly solicited. Independent claims 14 and 18 are allowable for containing a similar subject matter to that of claim 1. Therefore, claims 14 and 18 and the claims dependent thereon are also allowable.

Claim Rejection Under 35 U.S.C. 103

Claims 10-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chakrabarti, *supra*, in view of Heydon et al. ("Mercator: A Scalable, Extensible Web Crawler"), hereinafter referred to as "Heydon". Applicants respectfully submit that the two cited references do not disclose all the elements and limitations of the claims on file as a whole. Consequently, the claims on file are not obvious under 35 U.S.C. 103, and the allowance of these claims is earnestly solicited.

In addition to the Examiner's position that "Regarding claim 12, Chakrabarti does not explicitly teach a method comprising: A) the miner disallowing the crawling of the resulting resource locator string when the content of the resulting resource locator string matches a focus topic of the miner" and that "Regarding claim 13, Chakrabarti does not explicitly teach a method comprising: A) wherein the miner comprises an unfocus miner that places the resulting uniform resource locator strings that match an unfocus topic in a blacklist, so that the uniform resource locator strings will not be crawled again", Applicants agree with the Examiner that:

"Regarding claim 10, Chakrabarti does not explicitly teach a method comprising:
A) the miner allowing a crawling of the resulting resource locator string when the resulting resource locator string matches a plurality of web space rules."

"Regarding claim 11, Chakrabarti does not explicitly teach a method comprising:

A) wherein the web space rules comprise domain rules, IP address rules, and prefix rules."

With regard to claims 10 and 11, Applicants respectfully submit that these claims are allowable for depending on the allowable claim 1.

The Examiner reasons that with regard to claim 10, "Heydon, however, teaches "the miner allowing a crawling of the resulting resource locator string when the resulting resource locator string matches a plurality of web space rules" as "The URL filtering mechanism provides a customizable way to control the set of URLs that are downloaded...The URL filter class has a single crawl method that takes a URL and returns a Boolean value indicating whether or not to crawl that URL" (Page 6, Section: 3.6: URL Filters)."

In response, Applicants reproduce below an excerpt from the cited text of Heydon, which is believed to be relevant to the Examiner's rejection:

"The Google search engine is a distributed system that uses multiple machines for crawling [4,11]. The crawler consists of five functional components running in different processes. A *URL server process* reads URLs out of a file and forwards them to multiple crawler processes. Each *crawler process* runs on a different machine, is single-threaded, and uses asynchronous I/O to fetch data from up to 300 web servers in parallel. The crawlers transmit downloaded pages to a single *StoreServer process*, which compresses the pages and stores them to disk. The pages are **then** read back from disk by an *indexer process*, which extracts links from HTML pages and saves them to a different disk file. A *URL resolver process* reads the link file, derelativizes the URLs contained therein, and saves the absolute URLs to the disk file that is read by the URL server. Typically, three to four crawler machines are used, so the entire system requires between four and eight machines."

To the best understanding of the Applicants, Heydon describes downloading the web pages and **then** reads the URLs contained therein. Contrary to Heydon, claim 10 recites the following element: "comprising the miner allowing a crawling of the resulting resource locator string when the resulting resource locator string matches a plurality of web space rules." In other terms, the order of operation recited in claim 10 is opposite to that in Heydon. More specifically, according to claim 10, the resulting resource locator string **first** matches to a plurality of web space rules **and then**, based on such matching step, allows the crawling of the resulting resource locator string.

As a result, Applicants respectfully submit that Heydon does not consider the present invention as a whole. Reference is made to the following legal authority in support of the finding of non-obviousness:

"In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but **whether the claimed invention as a whole would have been obvious**. The prior art perceived a need for mechanisms to dampen resonance, whereas the inventor eliminated the need for dampening via the one-piece gapless support structure. "Because that insight was contrary to the understandings and expectations of the art, the structure effectuating it would not have been obvious to those skilled in the art." 713 F.2d at 785, 218 USPQ at 700."

As a result, the hypothetical combination of Chakrabarti and Heydon will not consider the present invention as a whole, necessitating the finding of non-compliance with the foregoing legal standard.

In support of the combination of Chakrabarti and Heydon, the Examiner states as follows:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the cited

references because teaching Heydon's would have allowed Chankrabarti's to provide a scalable and customizable web crawler to fit a specific user's needs, as noted by Heydon (Page 2, Section: 2: Related Work)."

Applicants respectfully submit that Heydon **does not provide any teaching or suggestion** to support modifying the Chakrabarti design, as presented earlier in support of the allowance of claim 1.

In addition, the Examiner provided a general reason for the desirability of the combination of Chakrabarti and Heydon, in hindsight, without referring to any substantive (or significant) teaching or suggestion in Heydon in support of such combination. More specifically, the foregoing reason provided by the Examiner is generic, insufficiently specific, and does not provide any ground for the combination of Chakrabarti and Heydon, to provide the elements of claim 10.

As a result, The Examiner has not met the prima facie burden of supporting the obviousness rejection under 35 USC 103, and the hypothetical combination of Generous and Boyer cannot be used to support a finding of obviousness, as indicated by the legal authorities below:

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, **absent some teaching or suggestion** supporting the combination." *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1598 (citing *ACS Hosp. Sys. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)). **What a reference teaches** and whether it teaches toward or **away from the claimed invention** are questions of fact. See *Raytheon Co. v. Roper Corp.*, 724 F.2d 951, 960-61, 220 USPQ 592, 599-600 (Fed. Cir. 1983), cert. denied, 469 U.S. 835, 83 L. Ed. 2d 69, 105 S. Ct. 127 (1984)."

"When a rejection depends on a combination of prior art references, there must be **some teaching, suggestion, or motivation** to combine the

references. See *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987). "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention **where there is some teaching, suggestion, or motivation** to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See MPEP 2143.01; *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)."

Claim 10 is thus not obvious in view of Chakrabarti and Heydon and the allowance of this claim and the claim dependent thereon, including claims 11-13, is earnestly solicited.

CONCLUSION

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned at the below-listed telephone number.

Respectfully submitted,

/Samuel A. Kassatly/

Date: March 22, 2007
Samuel A. Kassatly, Law Office
20690 View Oaks Way
San Jose, CA 95120
Tel: (408) 323-5111
Fax: (408) 521-0111

Samuel A. Kassatly
Attorney for Applicants
Reg. No. 32,247